

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

BEVERLY FAYE BLYTHE,

Plaintiff,

vs.

Civil No. 09-739 JCH/RLP

SOUTHWEST AIRLINES CO.,

Defendant.

**MEMORANDUM OPINION AND ORDER
DENYING PLAINTIFF'S MOTION TO AMEND and FOR EXTENSION**

On December 22, 2009, Plaintiff, Beverly Faye Blythe ("Plaintiff" herein), filed a one page Motion to amend her Complaint, and for a sixty day extension of time in which to do so. (Docket No. 20). Plaintiff stated no grounds in her motion, nor did she attach a proposed amended Complaint to Motion or to her Reply (Docket No.25).

Defendant has filed responsive pleadings in this matter.¹ Accordingly, F.R.Civ. P. 15(a) requires that Plaintiff obtain Defendant's written consent or an order of the court before she may amend her Complaint. Leave is to be freely given when justice so requires. *Id.*

The court's ability to determine whether leave should be granted in this case is frustrated by Plaintiff's failure to follow this District's Local Rules. Pursuant to D.N.M. LR-Civ. 15, a party seeking to amend a pleading must attach a copy of the proposed amendment his or her motion to amend.

Plaintiff is proceeding *pro se*. Therefore the court must liberally construe her pleadings.

¹ The following has been filed and fully briefed: Motion to Dismiss for Failure to State a Claim (Docket Nos. 7, 9 and 10). The following has been file, with Plaintiff's Response due January 21, 2010: Motion to Dismiss for Lack of Subject-Matter Jurisdiction and for Failure to State a Claim (Docket Nos. 18, 23).

Haines v. Kerner, 104 U.S. 519, 520-21, 26 L.Ed. 815 (1972). Nevertheless the court will not act as advocate for a pro se litigant, who must comply with the fundamental requirements of the Federal Rules of Civil Procedure. Hall v. Bellmon, 935 F.2d 1106, 1110 (10th Cir.1991). Plaintiff's *pro se* status does not entitle her to application of different rules. See Montoya v. Chao, 296 F.3d 952, 957 (10th Cir.2002); Drake v. City, 927 F.2d 1156, 1159 (10th Cir.1991) ("Despite the liberal construction afforded *pro se* pleadings, the court will not construct arguments or theories for the plaintiff in the absence of any discussion of those issues." (citation omitted)); Creative Gifts, Inc. v. UFO, 235 F.3d 540, 549 (10th Cir.2000) (*Pro se* litigants are subject to the same procedural rules as everyone else).

Plaintiff's Motion to Amend and for extension of time is **DENIED**. Plaintiff may refile this motion, provided she complies with D.N.M. LR-Civ. 15, and attaches a copy of her proposed amendment to her motion to amend.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read 'Richard L. Puglisi', is written over a horizontal line.

Richard L. Puglisi
Chief United States Magistrate Judge